

# Cahoy Dec. Ex. 2

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

IN RE: DA VINCI SURGICAL )  
ROBOT ANTITRUST LITIGATION )

Lead Case No. 3:21-cv-03825-VC

THIS DOCUMENT RELATES TO: )  
ALL CASES )

SURGICAL INSTRUMENT SERVICE )  
COMPANY, INC., )

Case No. 3:21-cv-03496-VC

Plaintiff, )

vs. )

INTUITIVE SURGICAL, INC., )

Defendants. )

\*\* HIGHLY CONFIDENTIAL - ATTORNEY'S EYES ONLY \*\*

REMOTE VIDEOTAPED DEPOSITION OF RYAN SHAW

Wednesday, October 19, 2022

Volume I

Reported by:

NADIA NEWHART

CSR No. 8714

Job No. 5507276

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1 Q There are no high-level differences that  
2 you're aware of, as you sit here today?

3 A There are definitely indifferences;  
4 otherwise, we wouldn't have made another generation  
5 system, but I just don't recall those differences at  
6 the time.

7 Q And do you know what the Si(r) is?

8 A My understanding is a refurbished Si system.

9 Q Do you know what the -- before we get into  
10 that, is it refurbished from what?

11 MS. CAHOY: Objection to form.

12 THE WITNESS: What is --

13 BY MR. MAIDA:

14 Q Sure. I'll rephrase.

15 You said the Si(r) is a refurbished system.

16 How is it refurbished?

17 A I do not know. I was not close to the  
18 refurbishing of that product.

19 Q Do you know, again at a high level, what the  
20 difference is between the Si and the Si(r)?

21 A I do not. I was not close to that one  
22 specifically.

23 Q Okay. What are the differences between the  
24 Si and the X model?

25 A The Si and the X?

1 Q Yep.

2 A So high level differences between the Si and  
3 the X are better vision for the surgeon, new  
4 software capabilities for the X system, using the  
5 fourth generation instrumentation, so same  
6 instrumentation as da Vinci Xi and some differences  
7 in access to the patient. We talked about getting  
8 access for different surgeries. Access was also  
9 greater on the X system because of the arm  
10 architecture.

11 The surgeon console, which is where the  
12 surgeon sits and performs the surgery, was very  
13 different, not just the vision but also the controls  
14 and everything that they did to control the system.

15 Q Do you know what the difference is between  
16 the Si(r) and the X model are?

17 A I do not recall. I would assume they're  
18 similar because it's a refurbished Si.

19 Q What is the differences between the Si(r) and  
20 the Xi?

21 A Similarly to the differences between the Si  
22 and the Xi as mentioned. So the Si second  
23 generation system was more limited in range of  
24 motion, instrument capabilities, advanced vision  
25 imaging, many of the things mentioned.

1 X generation 4 had more capabilities than Si  
2 and Xi has more capabilities than X, as mentioned.

3 Q Do all Si models have the four capable arms?

4 MS. CAHOY: Objection to form.

5 THE WITNESS: Is your question whether the Si  
6 system -- maybe repeat the question so I understand  
7 it.

8 BY MR. MAIDA:

9 Q Sure. How many surgically capable arms does  
10 the Si have?

11 A Hmmm. The -- from what I recall, the Si  
12 system has options for three arms or four arms.

13 Q And is it true that -- that all Si(r) models  
14 have four arms?

15 MS. CAHOY: Objection to form.

16 THE WITNESS: I do not recall if every one  
17 had four arms.

18 BY MR. MAIDA:

19 Q The X has four arms, correct?

20 A Correct.

21 Q And the Xi has four arms?

22 A Correct. Both have four arms.

23 Q Intuitive no longer sells the S, correct?

24 A Correct.

25 Q Intuitive no longer sells the Si, correct?

1       they evaluated that and if it was feasible.

2               One thing that's a big difference between  
3       system generations are the upgradeability based on  
4       the architecture. If the architecture is not able  
5       to receive the upgrade, that's one of a number of  
6       reasons why a next generation system is actually  
7       developed to enable the upgrades that couldn't be  
8       done on a prior generation system.

9       BY MR. MAIDA:

10       Q     Okay. But sitting here today, you can't tell  
11       one way or the other whether Intuitive did any  
12       testing on whether it could expand the stapling  
13       portfolio on the Si?

14       MS. CAHOY: Objection to form.

15       THE WITNESS: Not that I recall at the  
16       moment, no.

17       BY MR. MAIDA:

18       Q     Okay. What is platform modularity?

19       A     So platform modularity was something with 4th  
20       generation systems that customers had asked for  
21       which is, can I use, for example, the surgeon  
22       console where the surgeon sits? Can I use that  
23       surgeon console on different systems and switch the  
24       surgeon console?

25       Because sometimes they use two surgeon

1 consoles if they're teaching, and so modularity  
2 means they could take one surgeon console and bring  
3 it to another system and plug it in and it actually  
4 works and communicates with that system.

5 So customers asked for this because they  
6 wanted to be able to use their capital between  
7 different rooms and plug it in and not have to buy a  
8 whole 'nother piece of capital for the other room.

9 Q What is 3D HD vision?

10 A Three-dimensional high definition vision.

11 Q Was 3D HD available on the Si?

12 A I believe so, but it was not as good. So HD,  
13 as you know like with your TV, there's 720p, 1080p  
14 so the -- the details matter. It was different  
15 vision quality between the systems.

16 Q So was the X system's 3D HD vision better?

17 MS. CAHOY: Objection to form.

18 THE WITNESS: So that's a qualitative  
19 question for customers, but we believe, based on the  
20 specs between the 3rd generation Si and 4th  
21 generation X, that the specs between the two had  
22 better specs.

23 BY MR. MAIDA:

24 Q Did Intuitive conduct any studies on whether  
25 it could install this improved vision on the Si

1 same function as the one being discontinued so that  
2 they have an alternate, correct.

3 BY MR. MAIDA:

4 Q And -- okay. These are the alternatives that  
5 Intuitive provided the -- the customer, right?

6 A Yeah. These look like the suggested  
7 alternatives for the customer.

8 Q We can set aside this document. Oh,  
9 actually, before we set it aside --

10 A Uh-huh.

11 Q Excuse me. I do have a couple more  
12 questions.

13 Let's look at the -- the second page of the  
14 letter that bears the Bates stamp 4507.

15 A Okay.

16 Q It says (as read):

17 "Intuitive is committed to our  
18 maintenance and service contracts  
19 through at least 2024 or the  
20 timeframe stated in your current  
21 contract, whichever is later.  
22 Beyond 2024 or after your service  
23 contract expires, Intuitive will  
24 continue repairs on a time and  
25 material basis as parts are

1           available."

2           Do you see that?

3           A    I do.

4           Q    So beyond 2024, Intuitive does not plan to  
5   service the da Vinci Si except for time and material  
6   basis as parts available, correct?

7           MS. CAHOY:  Objection to form.

8           THE WITNESS:  So what it states is that they  
9   will -- we will service contracts through at least  
10  2024 or the time frame stated in the current  
11  contract which could be later.  Beyond 2024, we'll  
12  continue to service the system on time and material.  
13  BY MR. MAIDA:

14          Q    What's time and material?

15          A    Time and material means if the system needs  
16  to be serviced, if something breaks, that it will be  
17  repaired and charged based on the material used and  
18  the time required to fix it.

19          Q    So Intuitive will regularly service the Si up  
20  to 2024 or the end of a customer's contract,  
21  correct?

22          MS. CAHOY:  Objection to form.

23          THE WITNESS:  So it's not that Intuitive will  
24  regularly service through 2024.  The service  
25  packages offered by Intuitive include a number of

1 different things. So what it's stating in the  
2 document is the service packages will only be  
3 available until 2024 or a later date based on the  
4 contract and then based on that will just do  
5 repairs. So it's more about the service offerings,  
6 not whether or not they will repair the system.

7 BY MR. MAIDA:

8 Q It says (as read):

9 "Intuitive will continue repairs on  
10 a time and material basis as parts  
11 are available," correct?

12 A Yes.

13 Q So there could be -- so, for example, if some  
14 parts are not available at the time, Intuitive will  
15 not be able to service an Si robot, correct?

16 MS. CAHOY: Objection to form.

17 THE WITNESS: Yeah, so third-party suppliers  
18 supply our parts. If a third-party supplier does  
19 not have that part available for us anymore to  
20 repair, then no, we would not be able to repair that  
21 part of the system if we cannot get that part.

22 MR. MAIDA: Okay. We can set this document  
23 aside.

24 Let's go ahead and look at envelope 11A which  
25 we're going to mark as Exhibit 63A.

1 I, the undersigned, a Certified Shorthand Reporter  
2 of the State of California, do hereby certify:

3 That the foregoing proceedings were taken  
4 before me at the time and place herein set forth;  
5 that any witnesses in the foregoing proceedings,  
6 prior to testifying, were administered an oath; that  
7 a record of the proceedings was made by me using  
8 machine shorthand which was thereafter transcribed  
9 under my direction; that the foregoing transcript is  
10 a true record of the testimony given.

11 Further, that if the foregoing pertains to the  
12 original transcript of a deposition in a Federal  
13 Case, before completion of the proceedings, review  
14 of the transcript [x ] was [ ] was not requested.

15 I further certify that I am neither financially  
16 interested in the action nor a relative or employee  
17 of any attorney or any party to this action.

18 IN WITNESS WHEREOF, I have this date subscribed  
19 my name.

20  
21 Dated: November 3, 2022

22   
23

NADIA NEWHART

24 CSR NO. 8714  
25